

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1980

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 80-32
)
PLANNED COMMUNITIES, INC., an)
Illinois Corporation, and)
BRIARCLIFF ASSOCIATION,)
)
Respondents.)

ORDER OF THE BOARD (by I. Goodman):

Motion to Dismiss for Lack of Jurisdiction (filed May 29, 1980) is denied. Whether Planned Communities, Inc. has never operated or directed operations of the public water supply system, a question of fact, is immaterial to a finding of whether it is the owner or official custodian thereof such that the Board can take jurisdiction of this enforcement case. Such argument is in the nature of an answer to the complaint rather than a motion arguing the Board's power. Similarly, Planned Communities, Inc.'s lease of the system to the Briarcliff Association does not rule out a finding by the Board that Planned Communities, Inc. is the owner or official custodian thereof.

Motion to Dismiss (filed May 29, 1980) is denied for the reasons stated above. Furthermore, the Board finds that Planned Communities, Inc. is not an improper party respondent herein.

Motion to Strike for Lack of Jurisdiction (filed May 29, 1980) is denied. Section 23 of the Public Water Supply Operation Act, Ill.Rev.Stat. ch. 111-½, §523 (1977) authorizes the Board's jurisdiction over violations of that act.

Motion to Add Necessary Parties (filed May 29, 1980) is granted with respect to the Briarcliff Association only. The Board finds that complete relief may not be possible without jurisdiction over Briarcliff. As to the named individuals, however, the finding is to the contrary. Planned Communities, Inc. is ordered to serve the Briarcliff Association with a copy of the complaint, the Motion to Add Necessary Parties, and this Order within 30 days hereof.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 10th day of July, 1980 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board